

EVALUATOR MANUAL TRANSMITTAL SHEET**Distribution:**

☐ All Day Care Evaluator Manual Holders
☒ All Residential Care Evaluator Manual Holders
☐ All Evaluator Manual Holders

Transmittal No.

99 APX-06

Date issued.

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Subject:

APX - CCF: 1998 Chaptered Legislation and Implementation

(Appendix Tab A - Community Care Facilities (Children's Residential))

Reason For Change:

This transmits summaries of legislation chaptered in 1998 affecting Community Care Facilities (Children's Residential). The summaries are divided into two sections as follows:

- I. Action Required - Interim instructions are provided and will be incorporated into the appropriate Evaluator Manual section as soon as possible.
- Deferred Until Further Notice - No action required at this time pending further instructions.
- II. Information Only - No action required by CCLD.

An index is attached to assist staff in locating specific bills. Statutes referenced in this document become operative on January 1, 1999, unless otherwise indicated. Additionally, specific bill summaries may include pertinent attachments.

Filing Instructions:☐ REMOVE

☒ INSERT - the attached pages into Appendix A. Do not remove similar document from previous years.

Approved:

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SUMMARY OF 1998 CHAPTERED LEGISLATION

COMMUNITY CARE FACILITIES (CHILDREN'S RESIDENTIAL)

ACTION REQUIRED

BILL NUMBER	SUBJECT	PAGE
Assembly Bill (AB) 1987	Security Windows Bars	1
AB 2773	Private Adoption Agencies/Foster Family Homes	2
AB 2774	Transitional Housing Placement Program Statewide Implementation	3
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INFORMATION ONLY – NO ACTION REQUIRED

* There are no Children's Residential "Information Only" bills.

ACTION REQUIRED

AB 1987 (ARONER), CHAPTER 343, STATUTES OF 1998

Affects: Community Care Facilities (CCF), Residential Care Facilities for Persons with Chronic Life-Threatening Illness (RCF-CI) and Residential Care Facilities for the Elderly (RCFE).

Subject: Security Window Bars

Summary: This legislation adds Health and Safety Code Sections 1531.4 and 1568.075 to prohibit security window bars from being installed or maintained on any facility unless the security window bars meet current state and local requirements for safety release devices.

Implementation:

The statute is sufficiently clear to implement without regulations. Use the statutory provision in Health and Safety Code Section 1531.4 for Community Care Facilities (CCFs) and Section 1568.075 for Residential Care Facilities for the Chronically Ill (RCF-CIs).

Facilities with security bars on the windows must have safety release devices that are in good working order. The LPA's responsibility is to ensure that the safety release devices are operating properly. At the facility visit, request the licensee/staff to demonstrate that the safety release device on each security window is operable. If the release devices are not in good working order, or if the secured window(s) do not have safety release devices do the following:

1. Cite the facility using the appropriate Health and Safety Code.
2. Immediately notify the local fire jurisdiction.
3. Consult with your licensing supervisor for possible administrative action.

AB 2773 (COMMITTEE ON HUMAN SERVICES), CHAPTER 1056,
STATUTES OF 1998

Affects: Private Adoption Agencies and Foster Family Homes

Subject: Executive Director or Supervisor of an Adoption Agency and Change to
Definition of a Relative for Foster Family Homes

Summary: This legislation adds Section 1502.6 to the Health and Safety Code. It requires, as a condition of licensure, that either the executive director or supervisor of a private adoption agency have at least five years of full-time social work employment in the field of child welfare. Two of the five years must have been spent performing adoption social work services in either the Department of Social Services or a licensed California adoption agency. This legislation also amends Welfare and Institutions Code Section 319(d) to revise the definition of a relative. Effective January 1, 1999, relatives of a child's half-sibling will no longer be exempt from licensing when determining the exemption status of a foster family home applicant.

Implementation:

a) Director or Supervisor Qualifications

Effective January 1, 1999, use Health and Safety Code Section 1502.6 as the authority to:

1. Deny the license of a private adoption agency license that does not employ an executive director or supervisor with the above required experience.
2. Revoke the license of a private adoption agency license that does not employ an executive director or supervisor with the above required experience.

b) Definition of a Relative for Foster Family Homes

1. The legislation supercedes the existing emergency regulations implemented August 1, 1998.
2. Until the regulations are revised, use the provisions in the Welfare and Institutions Code Section 319(d) as the citing authority.

**AB 2774 (ASSEMBLY COMMITTEE ON HUMAN SERVICES), CHAPTER 873,
STATUTES OF 1998**

Affects: Transitional Housing Placement Program (THPP)

Subject: Statewide Implementation

Summary: This legislation amends Health and Safety Code Section 1559.110 to allow statewide implementation of the THPP program. The previous pilot project restriction is repealed, and the THPP applicant is no longer required to obtain the approval of the county board of supervisors.

Implementation:

The THPP is similar in construct to the Foster Family Agency licensing category. The THPP is not itself a facility licensee.

1. Until regulations are developed, CCLD district offices may continue to use the Health and Safety Code Sections as our authority to license THPP programs.
2. Licensees must comply with the General Licensing, Foster Family Agency and Small Family Home regulations. When appropriate, waivers or exceptions may be granted. For more detailed instructions, please see the May 8, 1995 Memorandum (copy attached).
3. Applicants must have their program certified by the county Department of Social Services or Probation Department prior to licensure.
4. The county must have an independent living program THPP plan approved by the Children and Family Services Division.
5. A copy of the program certification and approved THPP plan must accompany the application for licensure.

SB 933 (THOMPSON), CHAPTER 311, STATUTES OF 1998

Affects: Community Care Facilities (also affects Residential Care Facilities for the Chronically Ill, Residential Care Facilities for the Elderly, and Child Care Facilities)

Subject: Criminal Record Clearances and Foster Care Program Reform

Summary: The focus of SB 933 was primarily group homes. However, it did make some significant changes to the licensing and monitoring of all facilities licensed by the Community Care Licensing Division (CCLD). Not all of the changes are effective at the same time. It is, therefore, particularly important to pay attention to the effective dates provided below. Licensing staff will be provided specific implementation instructions when these provisions are implemented. The changes that affected community care facilities fall under the general headings of: a) Additional Requirements for Licensees who are Corporations; b) Improper use of Facility/Client Funds; c) Submitting Complaint Information to Board of Directors; d) Interviewing Child Abuse Victims; and, e) Access to Juvenile Court Records. Also included were SB 933 provisions which were deferred until further notice.

Specific Changes:

a) Additional Requirements for Licensees Who are Corporations

Effective August 18, 1998, Health and Safety Code Section 1520.11 was added to place additional requirements on applicants and licensees that are corporations.

- The applicant/licensee shall provide a list of all board members, executive directors or officers, describing all their past and present community care facility associations. Such associations shall include: licensees themselves, employees of a licensed facility, a member of a board overseeing a licensed facility, and an executive director or officer of a corporation involved with a licensed facility.
- An individual is ineligible to serve as a board member, executive director, or officer of a corporation for the following reasons: the department has revoked or denied a license held by that individual within the preceding two years; the department has ordered the denial or revocation of a foster family home certificate held by the individual within the preceding two years; the department has excluded or removed the individual and the individual has not been reinstated.
- Prior to initiating administrative action, the Department shall notify the facility, in writing, of the person's ineligibility, giving them opportunity to take their own action.
- When the ineligible person has client contact, the facility shall remove the individual from the facility upon notification.

- When the ineligible person does not have client contact, the facility shall remove the individual 15 days after notification.
- When a corporate applicant has a board member, executive director, or officer that is ineligible to serve, the Department shall deny the application.
- When a corporate licensee retains a board member, executive director, or officer that is ineligible to serve, the Department shall revoke the license.

Implementation:

Until regulations are developed, use the statutory provisions contained in the Health and Safety Code as the authority for implementation. The Administrative Organization form (LIC 309) shall be amended to require corporate applicants/licensees to provide the necessary information. Until the form is amended, please use the attached supplement (LIC 309A) to document all community care facility affiliations.

b) Improper Use of Facility/Client Funds

Effective August 18, 1998, Health & Safety Code Section 1550 was amended to allow the Department to deny or revoke a child care facility license for acts of financial mismanagement. Such acts include: a) the improper use or embezzlement of client monies and property; b) the fraudulent appropriation of facility monies or property for personal gain; or, c) willful or negligent failure to provide services. Health and Safety Code Sections 1558 and 1558.1 were also amended to allow the Department to exclude persons from the child care facilities for acts of financial mismanagement.

- Licensing staff should continue to follow existing guidelines regarding administrative actions and case referrals to the Legal Division.
- When an individual must be excluded, the Department must notify the facility, in writing. The individual has appeal rights as specified by law, which is the same as the existing employee exclusion rights.
- The Department may require immediate removal pending the final decision, when necessary, to protect the clients or residents.

c) Submitting Complaint Information to Board of Directors

Effective August 18, 1998, Health and Safety Code Section 1538.5(a)(1) was amended to require community care facility operators to send copies of substantiated complaints to the members of the facility's board of directors.

Implementation:

This new requirement is implemented using the statute language. Compliance with Section 1538.5(a)(1) may be verified through board minutes or receipts for certified mail sent to board members. This is not a retroactive requirement, but it applies to complaints substantiated after August 18, 1998.

d) Interviewing Child Abuse Victims

Effective August 18, 1998, Penal Code Section 11174.3 was amended to authorize representatives from CDSS to interview suspected child abuse victims during school hours on school premises. The alleged abuse may have occurred in the child's home or in an out-of-home care facility.

Implementation:

When interviewing a child at school, the child must be informed of his or her right to be interviewed in private or in the presence of a selected adult. The adult must be a member of the school staff, including certified or classified employees or volunteer aides.

e) Access to Juvenile Court Records

Effective August 18, 1998, Welfare and Institutions Code Section 827 was amended to grant CDSS legal staff or special investigators access to confidential juvenile court documents. Heretofore, CDSS was required to petition the presiding judge of the juvenile court.

Implementation:

When necessary to obtain juvenile court documents, LPA's shall follow existing procedure to request the services of the regional investigators.

SB 933 PROVISIONS SPECIFIC TO GROUP HOMES

Summary: Senate Bill 933 makes significant changes specific to group homes. These changes to the licensing and monitoring processes can be categorized as follows: a) Board Meetings to Discuss Group Home Compliance; b) Ensuring Accuracy of Submitted Documents; c) Administration Time and Duties; d) Activity Schedule; e) Prohibitions Against Offering Gifts to State or County Officers; f) Client Interviews, and g) Public Licensing Reports Available to the Public.

a) Board Meeting to Discuss Group Home Compliance

Effective August 18, 1998, Section 1520.1(f) was added to the Health and Safety Code to require group home boards of directors to meet quarterly. The agenda shall include a discussion of licensing reports, incident reports, financial and program audit reports, and any administrative action against the licensee or employees. The discussion shall be documented in the minutes.

Implementation:

The group home shall provide copies of minutes of board of directors meetings to the Department upon request. The Licensing Program Analyst may request a copy of the minutes to verify frequency of meetings and content of the discussion. This request may be made in writing, prior to the annual evaluation visit, or at the time of the visit, if deemed necessary.

b) Ensuring Accuracy of Submitted Documents

Health and Safety Code Sections 1520.1 was added to require all financial records submitted to the Department to contain a statement affirming that the information contained in the document is correct, to the best of the signator's knowledge, and that the signator understands that submission of false or misleading information may be prosecuted as a crime.

Implementation:

Employee timecards and timesheets must be both signed by the employee and a facility representative.

c) Administration Time and Duties

Effective August 18, 1998, Section 1522.43(a) was added to the Health and Safety Code to require every group home to state, in its plan of operation, the number of hours per week the administrator shall spend completing those duties. These duties include use of support personnel, required by Title 22, Division 6, Chapter 5, Section 84064.

1. New group home applicants must include the additional information in their plan of operation at the time the application for licensure is submitted to the district office. District offices should inform all group home applicants of this new requirement at the time of the orientation.
2. For currently licensed group homes, licensees must submit an amended plan of operation, which includes the new requirements, by **February 18, 1999**.

d) Activity Schedules

Effective August 18, 1998, Section 1522.43(c) was added to the Health and Safety Code to require every group home to develop a daily schedule of activities for the children at the facility. The activities each child participates in shall meet the individual needs of that child, based on the child's needs and services plan.

Implementation:

Each group home shall develop a schedule that identifies the activities of the children in placement, including school, medical appointments, counseling sessions, attendance at movies, school activities, etc. The facility may choose to develop one master schedule that incorporates the activities for each child in placement, or individual schedules for each child. The daily schedule of activities shall be available for inspection at the facility, by the department, upon request. The LPA shall review the schedule for consistency with the child's needs and services plan.

e) Prohibition Against Offering Gifts to State or County Officers

Effective August 18, 1998, Health & Safety Code Section 1522.4(c)(1) was amended to prohibit group home licensees, employees, officers, or members of the board of directors from offering gifts or remuneration that exceed established limits to an individual employed by CDSS or a placement agency.

Implementation:

The monetary limits for gifts are contained in Section 81000 et al. of the Government Code. Irrespective of this statute, CCLD has a longstanding policy of prohibiting employees from accepting gifts from licensees. This policy shall remain in force.

f) Client Interviews

Effective August 18, 1998, Health and Safety Code Section 1534(a)(1)(B) was amended to allow Department representatives to conduct client interviews as part of the annual group home evaluation visit.

Implementation:

Existing regulations allow representatives of the Department to interview children in private without prior consent. As amended, LPA's have the authority to interview children residing in group homes at any public or private agency. Examples include juvenile hall, recreation or vocational programs or nonpublic schools. When conducting the interview, the LPA shall respect the right of the child to refuse the interview, or if the child requests, to have another adult present during the interview.

g) Licensing Reports Available to The Public

Effective August 18, 1998, Health and Safety Code Section 1538.5(a)(2) was amended to require each licensed group home to make licensing reports of facility visits available to the public, placement officials, current and prospective facility clients, and these clients' family members at the facility site. The group home must keep this information for three years. Only information available in the public file of the licensing agency must be made available to the public at the facility site.

Implementation:

1. Include the following statement at the end of each licensing report of a group home visit, except for unfounded complaints: "This report must be filed in your facility file for public review."
2. Check to see that the group home is making a reasonable effort to make copies of the licensing reports of visits available for review to the required parties. For example, the group home may maintain a binder of licensing reports of group home visits to meet this requirement. Unless the LPA believes the group home is not making an effort to comply with Section 1538(a)(2), it is not necessary for the LPA to double-check the licensing office's files to ensure the group home is making all required reports available for public review.
3. When it is clear that a licensee is not aware of these new requirements, inform the licensee of the new law and develop a plan of correction to document this action.

SB 933 PROVISIONS SPECIFIC TO FOSTER FAMILY AGENCIES

Summary: Senate Bill 933 makes significant changes specific to foster family agencies. These changes to the licensing and monitoring processes include the following: a) Prohibition Against Offering Gifts to State or County Officers, and b) Complaint Investigations.

a) Prohibition Against Offering Gifts to State or County Officers

Effective August 18, 1998, Health & Safety Code Section 1522.4(c)(1) was amended to prohibit foster family agency licensees, employees, officers, or members of the board of directors from offering gifts or remuneration that exceed established limits to an individual employed by CDSS or a placement agency.

Implementation:

The monetary limits for gifts are contained in Section 81000 et al of the Government Code. Irrespective of this statute, CCLD has a longstanding policy of prohibiting employees from accepting gifts from licensees. This policy shall remain in force.

b) Complaint Investigations

Health and Safety Code Section 1538 was amended to require CDSS to investigate all complaints alleging licensing regulation violations against homes certified by a foster family agency.

Implementation:

Until emergency regulations are developed by June 30, 1999, this section will not be implemented. By June 30, 1999, foster family agencies must refer all complaints against certified family homes to the appropriate CCLD district office for a complaint investigation.

The provisions of SB 933 provided below have been deferred until notice. Licensing staff will be provided specific implementation instructions when these provisions are implemented.

Action Deferred Until Further Notice:

Affects: Community Care Facilities (also effects Residential Care Facilities for the Chronically Ill, Residential Care Facilities for the Elderly and Child Care Facilities)

Subject: Criminal Record Clearances and Foster Care Program Reform

1. Health and Safety Code Section 1522.02 was amended to allow CDSS to create a substitute employee registry. The registry may submit fingerprint cards and child abuse index information for persons working at more than one CCLD licensed facility.
2. Health and Safety Code Section 1522.1 was amended to require the Department of Justice to transmit to CDSS subsequent child abuse reports for persons that have required a child abuse index check.
3. Health and Safety Code Section 1522.04 was amended to require criminal record clearances before employment, residence, or initial presence in a facility when Live Scan is fully operational.

4. Existing Health and Safety Code Section 1538.5 allows the Department to send copies of certain licensing reports to parents, legal guardians, conservators, client's rights advocates or placement agencies. Effective August 18, 1998, the law has been amended to add members of the facility's board of directors.
5. Effective August 18, 1998, Health and Safety Code Section 1563 was amended to require LPA's with children's residential caseloads to receive an additional 24 hours of training that addresses issues related to the needs of children in out-of-home care.
6. The Welfare and Institutions Code was amended to authorize 6 percent AFDC-FC rate increases for various facilities including group homes and foster family agencies. Effective July 1, 1999, group homes and foster family agencies must have financial audits as a condition to receiving an AFDC-FC rate. Facilities licensed for 12 or fewer clients may request financial assistance for the audit. New group homes and existing providers seeking rate changes shall receive provisional rates. A permanent rate may be established after the department conducts an audit.